

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

RUBIN CRAIN IV	§	
v.	§	CIVIL ACTION NO. 6:17cv158
DIRECTOR, TDCJ-CID, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
ON DEFENDANTS LORIE DAVIS AND THE H.H. COFFIELD UNIT
MEDICAL DEPARTMENT - TDCJ PSYCHIATRIST

The Plaintiff Rubin Crain IV, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. As Defendants, Crain named TDCJ-CID Director Lorie Davis, Warden Cooper, Warden Richardson, Lt. Randall, and a defendant identified as “H.H. Coffield Unit Medical Dept, Tenn. Colony, Tx. - TDCJ-CID (psychiatrist).” In an attached pleading, Crain names only Warden Cooper, Warden Richardson, and Lt. Randall.

Crain’s lawsuit consists of claims of denial of medical and mental health care and retaliation. These claims were severed out of a habeas corpus action which Crain filed because these claims are not properly adjudicated in habeas corpus proceedings.

After review of the pleadings, the Magistrate Judge issued a Report recommending dismissal of Lorie Davis and the H.H. Coffield Unit Medical Dept, Tenn. Colony, Tx. - TDCJ-CID psychiatrist because Crain’s pleadings, as amended, failed to state a claim upon which relief may be granted against either of these defendants.

Crain filed untimely objections to this Report, which the Court has considered in the interest of justice. These objections trace Crain’s litigation history, argue that his claims are not frivolous

because he has a plausible claim for relief, and assert that his pleadings adequately allege deliberate indifference and retaliation, though he cites no specific facts in support of these claims. He does not refer to the Defendants Lorie Davis or the H.H. Coffield Unit Medical Dept, Tenn. Colony, Tx. - TDCJ-CID psychiatrist, nor does he controvert the Magistrate Judge's proposed findings and conclusions concerning these Defendants. *See Battle v. United States Parole Commission*, 834 F.2d 419, 421 (5th Cir. 1987) (the district court need not consider conclusory or general objections). Crain's objections are without merit.

The Court has conducted a careful *de novo* review of those portions of the Magistrate Judge's proposed findings and recommendations to which the Plaintiff objected. *See* 28 U.S.C. §636(b)(1) (District Judge shall "make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made.") Upon such *de novo* review, the Court has determined that the Report of the Magistrate Judge is correct and the Plaintiff's objections are without merit. It is accordingly

ORDERED that the Plaintiff's objections are overruled and the Report of the Magistrate Judge (docket no. 19) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Defendants Lorie Davis and the H.H. Coffield Unit Medical Dept, Tenn. Colony, Tx. - TDCJ-CID psychiatrist are **DISMISSED WITHOUT PREJUDICE** from this lawsuit. The dismissal of these parties shall have no effect upon the remaining claims or defendants in the case.

So Ordered and Signed

Mar 14, 2018



Ron Clark, United States District Judge